

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

RUSSELL COOPER, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 2:22-cv-00100

UNITED STATES OF AMERICA, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court is a Motion by Emily L. Ford, *guardian ad litem* for James Pomeroy for Leave to File Under Seal the Report of Guardian Ad Litem. [ECF No. 49-1]. Ms. Ford contends that the Report of Guardian Ad Litem contains sensitive information relating to Mr. Pomeroy's health and incarceration that should not be made available to the public. For the reasons contained herein, the Motion is **GRANTED**.

In order to determine whether the materials should be sealed, the court will weigh the public's First Amendment and common law rights of access against the interests of the party seeking continued confidentiality. *See Virginia Dept. of State Police v. Washington Post*, 386 F.3d 567, 575–76 (4th Cir. 2004). Public inspection of court documents is imperative so that “the public can judge the product of the courts in a given case.” *Columbus-Am. Discovery Group v. Atl. Mut. Ins. Co.*, 203 F.3d 291,

303 (4th Cir. 2000). As this court has previously noted, “all documents filed for the Court’s consideration in a civil case, even if not the subject of a judicial decision, are subject to presumptive access.” *Walker Sys., Inc. v. Hubbell Inc.*, 188 F.R.D. 428, 429 (S.D. W. Va. 1999).

Local Rule of Civil Procedure 26.4(c)(2) requires that the memorandum of law accompanying the motion to seal contain:

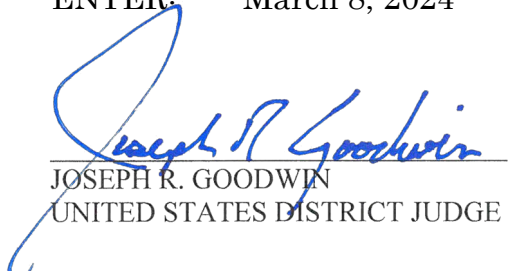
- (A) the reasons why sealing is necessary, including the reasons why alternatives to sealing, such as redaction, are inadequate;
- (B) the requested duration of the proposed seal; and
- (C) a discussion of the propriety of sealing, giving due regard to the parameters of the common law and First Amendment rights of access as interpreted by the Supreme Court and our Court of Appeals.

Local R. Civ. P. 26.4(c)(2). The court will only seal documents when “exceptional circumstances” are present. Local R. Civ. P. 26.4(c)(1).

Here, Ms. Ford provided a justification for why this document should be withheld from the public record in accordance with Local Rule of Civil Procedure 26.4. Finding that Mr. Pomeroy’s interest in the privacy of his sensitive health information outweighs the public interest in access to court documents, the Motion for Leave to File Under Seal, [ECF No. 49], is **GRANTED**.

**The court DIRECTS** the Clerk to file the Report of the Guardian Ad Litem, [ECF No. 49-1], under seal. The court further **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 8, 2024



JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE